

**MINUTES OF THE COURT OF APPEAL  
STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT**

**September 25, 1997**

DIVISION ONE

B106794 People (Not for Publication)  
v.  
Cox

The judgment is affirmed.

Spencer, P.J.

We concur: Ortega, J.  
Dunn, J. (Assigned)

B107222 People (Not for Publication)  
v.  
Hubbard

The judgment is affirmed.

Spencer, P.J.

We concur: Vogel (Miriam A.), J.  
Dunn, J. (Assigned)

B106521      Spellman et al.      (Not for Publication)  
v.  
Monroe Ins. Brokerage, Inc.

The judgment is affirmed.

Spencer, P.J.

We concur: Vogel (Miriam A.), J.  
Dunn, J. (Assigned)

September 25, 1997-Continued

## DIVISION ONE (Continued)

B106053 People (Not for Publication)

V.

Holloway

The judgment is affirmed.

Spencer, P.J.

We concur: Ortega, J.

Dunn, J. (Assigned)

B088453      Pedroche      (Not for Publication)

V.

Mioni

The judgment is affirmed.

Dunn, J. (Assigned)

We concur: Spencer, P.J.

Ortega, J.

B103557 Compton Education Assoc. et al. (Not for Publication)

V.

# Governing Board of Compton USD

The judgment is affirmed and respondent is awarded costs.

Dunn, J. (Assigned)

We concur: Spencer, P.J.

Ortega, J.

## September 25, 1997-Continued

## DIVISION ONE (Continued)

B103096 People (Not for Publication)  
v.  
Drumgole

The judgment is modified to show that defendant's "Three Strikes" sentence is based on his prior convictions of robbery and attempted robbery only. As so modified, the judgment is affirmed.

Spencer, P.J.

We concur: Vogel (Miriam A.), J.  
Dunn, J. (Assigned)

B106323      Perry      (Not for Publication)  
v.  
McDonnell Douglas Helicopter Co.

The judgment is affirmed. McDonnell Douglas Helicopter Company is awarded its costs of appeal.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.  
Ortega, J.

B099821 Schiff, etc., et al. (Not for Publication)  
v.  
Sokol et al.

The order is reversed as to the award of attorney's fees. In all other respects, it is affirmed. The parties are to bear their own costs on appeal.

Spencer, P.J.

We concur: Vogel (Miriam A.), J.  
Dunn, J. (Assigned)

September 25, 1997-Continued

## DIVISION ONE (Continued)

B104257 People v. Elias (Not for Publication)  
B111114 In re Elias on Habeas Corpus.

The judgment is affirmed. The petition for writ of habeas corpus is denied.

Spencer, P.J.

We concur: Ortega, J.  
Vogel (Miriam A.), J.

## DIVISION TWO

Court convened at 9:15 A.M.

Present: Boren, P.J., Fukuto, J., Nott, J., Zebrowski, J., Ito, J. (Assigned), and G. Villanueva, Deputy Clerk.

Each of the following:

B107745 People v. Mester  
B101799 People v. Roe  
B104813 People v. Bueno  
B099671 People v. Harris  
B105303 People v. Orabuena  
B108950 People v. Danny M.  
B104898 People v. Covington  
B104680 Compton Hotel v. City of Compton  
B102166 People v. Cooks  
B104204 In re Deandre S.  
B109154 In re Phylicia P.  
B111427 In re Devin M.  
B113838 Tracy W. v. Sup. Ct.  
B106882 People v. Tarin  
B107090 People v. Tolbert  
B096807 People v. Thomas  
B100136 People v. Sunday  
B109937 Kritt v. Encino Country Club  
B105414 Freeman v. Whittier College

Argument waived, cause submitted.

DIVISION TWO (Continued)

B104418     People  
              v.  
              Shaws

Merits:  
Argued by Jerald Newton for appellant and by Kent Bullard, Deputy  
Attorney General for respondent. Cause submitted.

B104751     People  
              v.  
              Straughter

Merits:  
Argued by Allen Weinberg for appellant and by Julie Swoboda, Deputy  
Attorney General for respondent. Cause submitted.

B103983     Mosler  
              v.  
              Agnes Bell Coyne Trust

Merits:  
Argued by Eileen Mosler, in propria persona and by Carol Churchill for  
respondent. Cause submitted.

B105551     Schuler  
              v.  
              First Federal Bank

Merits:  
Argued by Peter Porter for appellant and by Lawrence Dreyfuss for  
respondent. Cause submitted.

B105425     Gill Distribution  
              v.  
              Pirelli Tire

Merits:  
Argued by Phillip Fife for appellant and by Mitchell Kamarck for appellant.  
Cause submitted.

DIVISION TWO (Continued)

B106737     Kamine Steiner & Ungerer  
              v.  
              Chu

Merits:

Argued by Tien Chu, in propria persona and by Matt Steiner for respondent. Cause submitted.

B091566     Galan  
              v.  
              Olson

Merits:

Argued by John Hager for appellant and by Stephen Chesney for respondent. Cause submitted.

B108485     People  
              v.  
              Gohdes

Merits:

Argued by Fred Klink, Deputy District Attorney for appellant and by Janet Levine for respondent. Cause submitted.

B104760     People  
              v.  
              Marinelli

Merits:

Argued by Thomas Kallay for appellant and by Susan Diamond Deputy Attorney General for respondent. Cause submitted.

B096783     McCaleb  
              v.  
              City of L.A.

Merits:

Argued by R. Stephen Bolinger for appellant and by Vivienne Swanigan, Deputy City Attorney for respondent. Cause submitted.

DIVISION TWO (Continued)

B091726      Chaplan  
                  v.  
                  California Cosmetics

Merits:

Argued by James Tobin for appellant and by Robyn Johnson and Kirtley Thiesmeyer for respondents. Cause submitted.

Court recessed.

The Court reconvened at 1:00 P.M.

Present: Boren, P.J., Fukuto, J., Nott, J., Zebrowski, J., Ito, J. (Assigned), and J. Chlanda, Deputy Clerk.

B106112      People  
                  v.  
                  Zambrana

Merits:

Argued by Fay Arfa for appellant and by Andrew Amerson, Deputy Attorney General for respondent. Cause submitted.

B104066      People  
                  v.  
                  Swait

Merits:

Argued by Thomas Coleman for appellant and by Anh Nguyen, Deputy Attorney General for respondent. Cause submitted.

DIVISION TWO (Continued)

B099240     Johnson  
               v.  
               Meacham

Merits:  
Argued by Anne Hurte for appellant and by James George for respondent.  
Cause submitted.

B104033     City of Lancaster  
               v.  
               Ullo

Merits:  
Argued by Olaf Landsgaard for appellant and by David Mann for  
respondent. Cause submitted.

B114004     Soltz  
               v.  
               Superior Court, L.A. County  
               (Astro Office, r.p.i.)

Merits:  
Argued by Michael Harris for petitioner and by Juan Basombrio for real  
party in interest. Cause submitted.

B113738     Breakman  
               v.  
               Superior Court, L.A. County  
               (Seuthe & Matusek, r.p.i.)

Merits:  
Argued by Jonathan Cole for petitioner and by Henry Matusek for real  
party in interest. Cause submitted.



DIVISION TWO (Continued)

B105848 Carrillo  
v.  
Regents, University of California

Merits:  
Argued by Toni Jaramilla for appellant and by Susan Boyle for respondent.  
Cause submitted.

B099246 MKinley  
v.  
Compton Unified School District

Merits:  
Argued by Barrett Green for appellant and by Jefferey Bear for respondent.  
Cause submitted.

B109733 Kohagen  
v.  
W.C.A.B.  
(American Home, r.p.i.)

Merits:  
Argued by Ray Myers for petitioners and by Randall Paddock for  
respondent and by Constance Frazier Mann for respondent. Cause  
submitted.

B111705 Thompson  
v.  
WCAB

Merits:  
Argued by Lawrence Drasin for appellant and by Benjamin Herschbein for  
petitioner. Cause submitted.

Mr. Presiding Justice Boren leaves the bench.

September 25, 1997-Continued

## DIVISION TWO (Continued)

B111620      Rockwell  
v.  
Superior Court, L.A. County  
(Interinsurance, r.p.i.)

Merits:

Argued by Dan Graham for petitioner and by G. Richard Ford for real party in interest. Cause submitted.

Mr. Justice Nott leaves the bench.

B099439      Alvarado  
v.  
Alvarado

Merits:

Argued by Lawrence Rohlifing and Jay Oberholtzer for appellants and by Glen Schwartz and Armando Alvarado for respondents. Cause submitted.

Court adjourned.

DIVISION THREE

[illegible]

The Court:

The judgment is affirmed.

Croskey, Acting P.J., Kitching, J., Aldrich, J.

September 25, 1997-Continued

### DIVISION THREE (Continued)

[illegible]

The Court:

The judgment is affirmed.

Klein, P.J., Croskey, J., Aranda, J. (Assigned)

B109361 County of Los Angeles (Not for Publication)  
v.  
Deborah R.

The order of January 23, 1997 terminating mother's and father's parental rights is affirmed. The orders of December 24, 1996 denying father's section 388 petition and of January 16, 1997 denying his request for appointment of an expert also are affirmed.

Croskey, J.

We concur: Klein, P.J.  
Kitching, J.

B103207 People (Not for Publication)  
v.  
Rodarte

The Court:

The judgment is affirmed.

Klein, P.J., Croskey, J., Aranda, J. (Assigned)

September 25, 1997-Continued

### DIVISION THREE (Continued)

B104814 People (Not for Publication)

V.

Hughes

The Court:

The judgment is affirmed.

Croskey, Acting P.J., Kitching, J., Aldrich, J.

B105631 People (Not for Publication)

V.

# Flint

The Court:

The judgment is affirmed.

Croskey, Acting P.J., Kitching, J., Aldrich, J.

B106128 People (Not for Publication)

V.

Bailey

The Court:

The judgment is affirmed.

Klein, P.J., Croskey, J., Aranda, J. (Assigned)

## September 25, 1997-Continued

### DIVISION THREE (Continued)

B106294 Bayley (Certified for Publication)

**v.**

Regents of the University of California

The order of dismissal filed July 26, 1996 is reversed except as to the first and second causes of action for breach of contract and breach of the covenant of good faith and fair dealing. As to those causes of action, the order is affirmed. The matter is remanded with directions to grant plaintiff leave to amend his complaint and to conduct further proceedings consistent with the views expressed herein. Plaintiff shall recover his costs on appeal.

Croskey, Acting P.J.

We concur:   Kitching, J.

Aranda, J. (Assigned)

B097482 Tsemetzin (Certified for Publication)

V.

Coast Federal Savings &amp; Loan

The judgment is reversed. The trial court is directed to vacate its order granting summary judgment and to enter a new and different order denying the same and to conduct further proceedings consistent with the views expressed herein. Plaintiff shall recover his costs on appeal.

Croskey, J.

We concur: Klein, P.J.

Kitching, J.

## DIVISION FOUR

B096762 Sues, Young & Brown, Inc. (Not for Publication)

V.

Lamanna, et al.

The judgment is affirmed. Costs are awarded to respondents.

Hastings, J.

We concur:   Vogel (C.S.), P.J.

Epstein, J.

DIVISION FOUR (Continued)

B106312      Thompson                              (Certified for Publication)  
                 v.  
                 Thames

The judgment (July 17, 1996 order awarding child support retroactive to June 11, 1990) is affirmed.

Hastings, J.

We concur:    Vogel (C.S.), P.J.  
                 Epstein, J.

B102489      Morley                                              (Not for Publication)  
                 v.  
                 Glikbarg  
                 Harrison

The judgment is affirmed.

Baron, J.

We concur:    Vogel (C.S.), P.J.  
                 Hastings, J.

B105178      People                                              (Not for Publication)  
                 v.  
                 Rodriguez

The Court:

For the foregoing reasons, the judgment is affirmed.

Epstein, Acting P.J., Hastings, J., Baron, J.

DIVISION FOUR (Continued)

B092821      The Home Insurance Company                      (Not for Publication)

v.

County Sanitation District No. 15 of Los Angeles County

The judgment and order denying defense costs are affirmed.

Baron, J.

We concur: Epstein, Acting P.J.

Hastings, J.

B112110      People                                              (Not for Publication)

v.

Landis

The Court:

The judgment is affirmed.

Vogel (C.S.), P.J., Epstein, J., Hastings, J.

DIVISION FIVE

B101829      Brenda Fitzgerald                                      (Not for Publication)

v.

Boise Cascade Office Products Corporation, et al.

The judgment is reversed and the matter remanded to the trial court for further proceedings. Appellant to recover her costs on appeal.

Godoy Perez, J.

I concur: Turner, P.J.

I concur in the judgment: Armstrong, J. (opinion)

## September 25, 1997-Continued

## DIVISION FIVE (Continued)

B108256 People (Not for Publication)  
v.  
Benjamin Alexander Walsh

The judgment is affirmed.

Grignon, J.

We concur: Turner, P.J.  
Godoy Perez, J.

## DIVISION SIX

Civil                      Lee                                              (Not For Publication)  
No.                        vs.  
B110289                  Ventura County Superior Court  
State Compensation Insurance Fund (R.P.I.)

Let a writ of mandate issue directing respondent court to set aside its previous orders and to enter a new order that is consistent with the views expressed in this opinion. That is to say, petitioner is entitled to interest on ". . . all due and unpaid payments from the date of making and filing said [WCAB] award." (Lab. Code, Sec. 5800.) The amount of the award is \$20,864. He is entitled to 10 percent interest thereon for 146 days, i.e., .4 of a year. This computes to \$834.56. The stay order previously issued by this court is dissolved. Petitioner awarded costs. (Cal. Rules of Court, rule 56.4, subd. (a).)

Yegan, J.

We concur: Stone, P.J.  
Coffee, J.